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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,227	08/13/2001	Stephen F. Gass	SDT 304	8817
27630	7590	12/23/2004	EXAMINER	
SD3, LLC 22409 S.W. NEWLAND ROAD WILSONVILLE, OR 97070			ASHLEY, BOYER DOLINGER	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 12/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/929,227

Applicant(s)

GASS ET AL.

Examiner

Boyer D. Ashley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6-12,19 and 21-30 is/are pending in the application.
- 4a) Of the above claim(s) 6-12 and 21-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/17/04; 4/24/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: 1449's-4/17/04; 3/7/04; 2/04/04.

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DETAILED ACTION

1. This office action is in response to applicant's letter filed 7/21/04 and applicant's amendment filed 4/5/04. It should be noted that the double patenting rejections have been reviewed and updated in light of applicant's amendments as well as applicant's amendments in co-pending application. It is believed that all appropriate double patenting rejections with all of Applicant's applications have been made. As reiterated below, applicant's help is requested because of the large number of similar applications currently pending, patented, or currently being filed.

Election/Restrictions

2. Applicant's election with traverse of Groups I and A in the reply filed on 7/21/04 is acknowledged. The traversal is on the ground(s) that examining all of the currently pending claims does not impose a serious burden. This is not found persuasive because burden can be should by separate classification or by divergent subject matter. In this case, applicant's amendment filed 4/2/04, necessitated the previous and additional restriction requirement wherein various claims of not only differing scope but divergent subject matter. As explained in the previous office action, e.g., the subject matter of Group F could not be used with the subject matter of Group G and vice versa the subject matter of Group G could not be used with the subject matter of Group F. Therefore, a separate search would be required for each group. The requirement is still deemed proper and is therefore made FINAL.

3. Claims 6-7, 9-12, and 21-30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable

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generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 7/21/04.

SPECIAL CIRCUMSTANCES OF THIS APPLICATION

Even if a copending application is listed on this instant application or other copending applications or patents and the material information is technically of record in one or more parent or copending applications, the unusually large number of applicant's cases in varying stages of the examination process might result in one or more parent applications not being readily available for review, or material information of record not being readily apparent. Moreover, applications, which may not have any direct relationship, as continuing applications, to other copending applications by the same assignee may not be readily apparent due to the unusually large number of applicant's cases.

Applicant should point out such material information to the examiner of the instant application if the criterion for materiality applies, and if the examination record provides applicant reason to believe such information has not been considered by the examiner. This should include a listing of all related cases whether previously filed, recently filed, currently being filed, or patented.

If, to the best of applicant's knowledge, applicant has no previous patent or copending application, which would meet the definition of "material," applicant is requested to make a statement of that fact of record.

Any parent application labeled as a CIP or Divisional is assumed to claim a patentably distinct invention from the claims of this application and therefore the issue of double patenting has not been considered and the rights to priority are limited to the common disclosed subject matter unless it is brought to the examiners attention that some claims are not distinct.

37 CFR 1.56. Duty to disclose information material to patentability.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable

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construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1, 3-4, and 19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2, 4-8, and 14-18 of copending Application No. 10/215,929 in view of Friemann et al.

Claims 1-2, 4-8, and 14-18 of copending application '929 discloses the invention substantially as claimed except for the actuator being able to brake the cutting tool within approximately 3 milliseconds. However, Friemann et al. discloses that it is old and well known in the art to actuate braking of a cutting tool as fast as possible and more specifically 5 milliseconds for the purpose of preventing injury to the user.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to have claimed that the actuator of instant application is actuated to brake the cutting tool as fast as possible and at least within 5 milliseconds. As to the

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specific 3 milliseconds, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a 3 millisecond stopping time in order to increase the ability of the claimed device to prevent accidents because it is taught by Friemann et al. that the stopping time should be as quick as possible and because it has been held that discovering an optimum value involves only routine skill in the art as well as wherein the generally conditions of the claims are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. Therefore, increasing the speed at which the blade is braked from 5 milliseconds to 3 milliseconds does not serve to define a patentable device over the claims of '929 and Friemann et al. without unexpected results and in this case increasing the speed at which the blade is braked does not have unexpected results.

This is a provisional obviousness-type double patenting rejection.

6. Claims 1, 3-4, and 19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 21-28 of copending Application No. 09/929,240 in view of Friemann et al.

Claims 21-28 of copending application '240 discloses the invention substantially as claimed except for the actuator being able to brake the cutting tool within approximately 3 milliseconds. However, Friemann et al. discloses that it is old and well known in the art to actuate braking of a cutting tool as fast as possible and more specifically 5 milliseconds for the purpose of preventing injury to the user. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to have claimed that the actuator of instant application is actuated to brake

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the cutting tool as fast as possible and at least within 5 milliseconds. As to the specific 3 milliseconds, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a 3 millisecond stopping time in order to increase the ability of the claimed device to percent accidents because it is taught by Friemann et al. that the stopping time should be as quick as possible and because it has been held that discovering an optimum value involves only routine skill in the art as well as wherein the generally conditions of the claims are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. Therefore, increasing the speed at which the blade is braked from 5 milliseconds to 3 milliseconds does not serve to define a patentable device over the claims of '240 and Friemann et al. without unexpected results and in this case increasing the speed at which the blade is braked does not have unexpected results.

It should be noted that the claims of '240 are silent as to the motor of claim 1 of instant application; however, it should noted that the claims of '240 inherently discloses the motor because the cutting tool must be power by something. In any event, even if it is argued that the claims of '240 lacks the motor the examiner takes official notice that it is old and well known in the art to use motors with cutting tools in order to operate cutting tool, as also taught by Friemann et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use a motor with the cutting tool of the claims of the instant application in order to power the cutting tool to cut a workpiece.

This is a provisional obviousness-type double patenting rejection.

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7. Claim 19 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2 of copending Application No. 10/146,527 in view of Friemann et al.

Claims 1-2 of copending application '527 discloses the invention substantially as claimed except for the actuator being able to brake the cutting tool within approximately 3 milliseconds. However, Friemann et al. discloses that it is old and well known in the art to actuate braking of a cutting tool as fast as possible and more specifically 5 milliseconds for the purpose of preventing injury to the user. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to have claimed that the actuator of instant application is actuated to brake the cutting tool as fast as possible and at least within 5 milliseconds. As to the specific 3 milliseconds, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a 3 millisecond stopping time in order to increase the ability of the claimed device to prevent accidents because it is taught by Friemann et al. that the stopping time should be as quick as possible and because it has been held that discovering an optimum value involves only routine skill in the art as well as wherein the generally conditions of the claims are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. Therefore, increasing the speed at which the blade is braked from 5 milliseconds to 3 milliseconds does not serve to define a patentable device over the claims of '527 and Friemann et al. without unexpected results and in this case increasing the speed at which the blade is braked does not have unexpected results.

This is a provisional obviousness-type double patenting rejection.

8. Claim 19 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9, 11, and 28-30 of copending Application No. 09/929,237 in view of Friemann et al.

Claims 1-9, 11, and 28-30 of copending application '237 discloses the invention substantially as claimed except for an actuator being able to brake the cutting tool within approximately 3 milliseconds. However, Friemann et al. discloses that it is old and well known in the art to actuate braking of a cutting tool as fast as possible and more specifically 5 milliseconds for the purpose of preventing injury to the user. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to have claimed that the actuator of instant application is actuated to brake the cutting tool as fast as possible and at least within 5 milliseconds. As to the specific 3 milliseconds, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a 3 millisecond stopping time in order to increase the ability of the claimed device to prevent accidents because it is taught by Friemann et al. that the stopping time should be as quick as possible and because it has been held that discovering an optimum value involves only routine skill in the art as well as wherein the generally conditions of the claims are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. Therefore, increasing the speed at which the blade is braked from 5 milliseconds to 3 milliseconds does not serve to define a patentable device over the claims of '237 and Friemann et al.

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without unexpected results and in this case increasing the speed at which the blade is braked does not have unexpected results.

This is a provisional obviousness-type double patenting rejection.

9. Claims 1, 3-4, and 19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2, 6-7, 10-11, and 20-27 of copending Application No. 09/929,236 in view of Friemann et al.

Claims 1-2, 6-7, 10-11, and 20-27 of copending application '236 discloses the invention substantially as claimed except for the actuator being able to brake the cutting tool within approximately 3 milliseconds. However, Friemann et al. discloses that it is old and well known in the art to actuate braking of a cutting tool as fast as possible and more specifically 5 milliseconds for the purpose of preventing injury to the user.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to have claimed that the actuator of instant application is actuated to brake the cutting tool as fast as possible and at least within 5 milliseconds. As to the specific 3 milliseconds, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a 3 millisecond stopping time in order to increase the ability of the claimed device to prevent accidents because it is taught by Friemann et al. that the stopping time should be as quick as possible and because it has been held that discovering an optimum value involves only routine skill in the art as well as wherein the generally conditions of the claims are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

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Therefore, increasing the speed at which the blade is braked from 5 milliseconds to 3 milliseconds does not serve to define a patentable device over the claims of '236 and Friemann et al. without unexpected results and in this case increasing the speed at which the blade is braked does not have unexpected results.

It should be noted that the claims of '236 are silent as to the motor of claim 1 of instant application; however, it should be noted that the claims of '236 inherently disclose the motor because the cutting tool must be powered by something. In any event, even if it is argued that the claims of '236 lack the motor the examiner takes official notice that it is old and well known in the art to use motors with cutting tools in order to operate cutting tool, as also taught by Friemann et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use a motor with the cutting tool of the claims of the instant application in order to power the cutting tool to cut a workpiece.

This is a provisional obviousness-type double patenting rejection.

10. Claims 1, 3-4, and 19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of copending Application No. 09/929,241 in view of Yoneda and Friemann et al.

Claims 1-8 of copending application '241 disclose the invention substantially as claimed except for the actuator being able to brake the cutting tool within approximately 3 milliseconds upon detection of contact between the user and the blade. However, Yoneda discloses that it is old and well known in the art to use tool stopping mechanisms that brake blades upon detection of contact between the user and the

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blade for the purpose of preventing injury to the user while allow the user to move freely about the tool. Friemann et al. discloses that it is old and well known in the art to actuate braking of a cutting tool as fast as possible and more specifically 5 milliseconds for the purpose of preventing injury to the user. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to have claimed that the actuator of instant application is actuated to brake the cutting tool as fast as possible and at least within 5 milliseconds upon detection of contact between the user and the blade. As to the specific 3 milliseconds, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a 3 millisecond stopping time in order to increase the ability of the claimed device to prevent accidents because it is taught by Friemann et al. that the stopping time should be as quick as possible and because it has been held that discovering an optimum value involves only routine skill in the art as well as wherein the generally conditions of the claims are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. Therefore, increasing the speed at which the blade is braked from 5 milliseconds to 3 milliseconds does not serve to define a patentable device over the claims of '241 and Friemann et al. without unexpected results and in this case increasing the speed at which the blade is braked does not have unexpected results.

It should be noted that the claims of '241 are silent as to the motor of claim 1 of instant application; however, it should be noted that the claims of '241 inherently discloses the motor because the cutting tool must be powered by something. In any event, even if it is argued that the claims of '241 lack the motor the examiner takes official notice that it

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is old and well known in the art to use motors with cutting tools in order to operate cutting tool, as also taught by Friemann et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use a motor with the cutting tool of the claims of the instant application in order to power the cutting tool to cut a workpiece.

This is a provisional obviousness-type double patenting rejection.

11. Claims 19 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 17, and 19-28 of copending Application No. 10/100,211 in view of Friemann et al.

Claims 1, 17, and 19-28 of copending application '211 discloses the invention substantially as claimed except for the actuator being able to brake the cutting tool within approximately 3 milliseconds upon detection of contact between the user and the blade. However, Friemann et al. discloses that it is old and well known in the art to actuate braking of a cutting tool as fast as possible and more specifically 5 milliseconds for the purpose of preventing injury to the user. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to have claimed that the actuator of instant application is actuated to brake the cutting tool as fast as possible and at least within 5 milliseconds. As to the specific 3 milliseconds, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a 3 millisecond stopping time in order to increase the ability of the claimed device to prevent accidents because it is taught by Friemann et al. that the stopping time should be as quick as possible and because it has been held that discovering an

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optimum value involves only routine skill in the art as well as wherein the generally conditions of the claims are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. Therefore, increasing the speed at which the blade is braked from 5 milliseconds to 3 milliseconds does not serve to define a patentable device over the claims of '211 and Friemann et al. without unexpected results and in this case increasing the speed at which the blade is braked does not have unexpected results.

12. Claims 1, 3-4, and 19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of copending Application No. 10/643,296. Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ only in the claim terminology used but encompass the same subject matter, that is, claims 1-10 of copending application '296 anticipated the claim language of claims 1, 3-4, and 19 of in the instant application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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14. Claims 1 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoneda, U.S. Patent 4,117,752, in view of Andreasson, U.S. patent 4,653,189, and Friemann et al., U.S. Patent 3,858,095.

Yoneda discloses the invention substantially as claimed, including an actuator having stored energy sufficient to move the brake component (a capacitor that is charged to discharge to power the brake). Yoneda lacks the specific actuator for bring able to brake the cutting tool within approximately 3 milliseconds or less. However, Friemann et al. discloses that it is old and well known in the art to actuate braking of a cutting tool as fast as possible and more specifically within 5 milliseconds for the purpose of prevent injury to the user.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to have the brake of Yoneda capable of actuation within 5 milliseconds in order to prevent injury to the user.

As to the specific 3 milliseconds, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a 3 millisecond instead of 5 milliseconds in order to increase the ability of the device to prevent accidents because it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

In the alternative, even if it is argued that Yoneda lacks the stored energy capacitor, Andreasson discloses that it is old and well known in the art to use stored energy braking mechanisms, that is, electromechanical brakes with charged capacitors, for the purpose of providing an improved safety device on a cutting tool. Therefore, it

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would have been obvious to one of ordinary skill in the art at the time of the invention was made to use stored energy with the braking mechanism of the device of Yoneda in order to provide an efficient, economical braking mechanism, as taught by Andreasson.

15. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoneda, in view of Andreasson and Friemann et al. as applied to claims 1-2 above, and further in view of Baur, U.S. Patent 3,695,116, and Bielinski, U.S. Patent 5,606,889.

The modified device of Yoneda discloses the invention substantially as claimed except for that the actuator includes a electromechanical but is silent as to the type of electromechanical device and therefore, it lacks an actuator with a spring, wherein a removably housing is coupled to the frame and housing the spring and brake.

Baur discloses that it is old and well known in the art to replace electro-mechanical devices with spring loaded actuators that are electrically responsive by tensioned wires for the purpose of providing fast acting, less expensive, and smaller devices that providing large mechanical forces.

Bielinski discloses that it is old and well known in the art to use spring loaded actuators that use fusible members are contained in replaceable/removable cartridges for the purpose of facilitating efficiency of the operation of the device thereby allowing the user to quickly and easily replace used cartridges with new ones.

Furthermore, the examiner takes official notice that it is old and well known in the art to use to replace brakes and spring when they are worn out or before they are worn out for the purpose of maintaining the effectiveness of the brake system of the cutting tool such that the user is protected.

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Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to a removable housing comprising springs, brakes, and fusible members that enable actuation of a braking mechanism by a spring actuator in order to provide a fast acting, less expensive, smaller actuator that facilitates efficiency of the operation as taught by Baur and Bielinski, and such that the effectiveness of the braking system is maintained.

16. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yoneda, U.S. Patent 4,117,752 in view of Friemann et al., U.S. Patent 3,858,095.

Yoneda discloses the invention substantially as claimed, including, e.g., a cutting tool (14); a means for driving the cutting tool (10); means for detecting contact between a person and the tool (see column 1, lines 55-65); a brake component spaced apart from the tool (20); and means for moving the brake (b1, see column 2, lines 30-40). However, Yoneda lacks the specific braking within 3 milliseconds or less. Friemann et al. discloses that it is old and well known in the art to actuate braking of a cutting tool as fast as possible and more specifically within 5 milliseconds for the purpose of prevent injury to the user.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to have the brake of Yoneda capable of actuation within 5 milliseconds in order to prevent injury to the user.

As to the specific 3 milliseconds, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a 3 millisecond instead of 5 milliseconds in order to increase the ability of the device to prevent accidents

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because it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Response to Arguments

17. Applicant's arguments with respect to claims 1, 3-4, and 19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

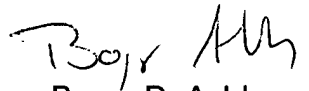
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boyer D. Ashley whose telephone number is 571-272-4502. The examiner can normally be reached on Monday-Thursday 7:30-6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Boyer D. Ashley
Primary Examiner
Art Unit 3724

BDA
December 20, 2004